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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,976	03/22/2004	Daniel J. Zigmond	MS1-1928US	2171

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EXAMINER
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WALSH, JOHN B

ART UNIT	PAPER NUMBER
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2151

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06/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/806,976	<b>Applicant(s)</b> ZIGMOND ET AL.	
	<b>Examiner</b> John B. Walsh	<b>Art Unit</b> 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/22/04</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 13 and 25-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims fail to place the invention squarely within one statutory class of invention. On page 22, lines 20-23 of the instant specification, applicant has provided evidence that applicant intends the “medium” to include signals. As such, the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim(s) is/are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefor not a composition of matter.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation “the second format” and “the first format”. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-10, 13-25 and 27-29 (13 and 25-29 as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,392,664 to White et al.

As concerns claims 1, 5, 6 (as best understood), 13, 19 and 25, comprising: receiving a request for content associated with a particular channel (col. 3, line 43), wherein the request is received from a client device (14); identifying service information data (col. 4, lines 1-10) associated with the channel; determining how content associated with the channel will be provided to the client device (fig. 1); and sending instructions to the client device, wherein the instructions notify the client device how to access (56; fig. 4, 5) content associated with the channel.

As concerns claims 2, 4, 22 and 25, wherein determining how content associated with the channel will be provided to the client includes a transport type (col. 2, lines 42-47) associated with the content.

As concerns claims 3, 4 and 21, wherein determining how content associated with the channel will be provided to the client includes a codec/encryption type associated with the content (col. 2, lines 21-26).

As concerns claims 5 and 25, further comprising: a second client device (fig. 1; multiple clients).

As concerns claim 7, a method as recited in claim 1 wherein identifying service information data associated with the channel includes retrieving service information data from a service information server (col. 3, line 65- server 24).

As concerns claim 8, a method as recited in claim 1 wherein the service information data associated with the channel includes at least one video component (col. 3, line 39) associated with the content.

As concerns claim 9, a method as recited in claim 1 wherein the service information data associated with the channel includes at least one audio component (col. 3, line 16) associated with the content.

As concerns claims 10, 20 and 27, wherein identifying service information includes identifying an Internet protocol address associated with the content (col. 2, line 43 – inherent to have an IP address for TCP/IP).

As concerns claims 14, 17 and 18, a method comprising: receiving a request for channel information from a client device (col. 3, lines 30-50); identifying current channel information

(col. 3, lines 30-50); and communicating the current channel information to the client device, wherein the current channel information includes data regarding channels available (col. 3, lines 30-50) to the client device, and wherein the client device uses the current channel information to request content associated with a particular channel (col. 3, lines 30-50).

As concerns claim 15, a method as recited in claim 14 further comprising: receiving updated channel information (inherent for content on the channel to change over time and thus user would be given the present info); and communicating the updated channel information to the client device (fig. 1).

As concerns claim 16, a method as recited in claim 14 further comprising: receiving updated channel information (inherent for content on the channel to change over time and thus user would be given the present info); and communicating the updated channel information to a plurality of client devices (fig. 1, multiple clients having devices).

As concerns claim 17, a method as recited in claim 14 further comprising: a second client device (fig. 1; multiple clients).

As concerns claim 23, a method as recited in claim 19 further comprising: generating a request for current channel information; and receiving current channel information (col. 3, lines 30-50 and 55-65).

As concerns claim 24, a method as recited in claim 23 wherein the client device uses the current channel information to request content associated with a particular channel (col. 3, lines 30-50 and 55-65).

As concerns claim 28, one or more computer-readable media as recited in claim 25 wherein the first transport type provides the requested data in a first encryption format and the

second transport type provides the requested data in a second encryption format (fig. 3, 62-encryption formats can be the same type).

As concerns claim 29, one or more computer-readable media as recited in claim 25 wherein the first transport type provides the requested data in an MPEG format (fig. 3, 62).

7. Claims 31- 35 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2004/0060063 A1 to Russ et al.

As concerns claim 31, an apparatus comprising: a service information server (0058; server 202) to store service information data associated with a plurality of video channels; and a video router (16) coupled to the service information server, the video router to receive requests to tune a particular video channel (0056,0058), the video router further to request service information data from the service information server wherein the requested service information data is associated with the requested video channel, and wherein the video router further determines how to provide the requested content to the requesting device based on the service information data (0056, 0061).

As concerns claim 32, an apparatus as recited in claim 31 wherein the service information data includes available video quality formats (0061-digital or analog).

As concerns claim 33, an apparatus as recited in claim 31 wherein the service information data includes available language formats (inherent audio will have a particular language).

As concerns claim 34, an apparatus as recited in claim 31 wherein the service information data includes transport information (0058-0061) associated with the requested video channel.

As concerns claim 35, an apparatus as recited in claim 31 wherein the video router is coupled to a data communication network (figures 1 and 2) to receive video channel requests and to send data to the requesting device.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,392,664 to White et al. as applied above in view of U.S. Patent No. 6,119,163 to Monteiro et al.

White et al. '664 do not explicitly disclose a multicast address associated with the content.

Monteiro et al. '163 teach multicast addresses (col. 1, lines 36-50).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system of White et al. '664, with multicast addresses, as taught by Monteiro et al. '163, in order to provide a means of simultaneously transmitting data from one node to a group of nodes. Such a modification is a combination of known elements yielding predictable results.



10. Claims 12 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,392,664 to White et al. as applied above in view of U.S. Patent No. 7,089,309 to Ramaley et al.

White et al. '664 do not explicitly disclose identifying content formats supported by the client device and the requested data in a Windows Media technologies player format.

Ramaley et al. '309 teach identifying content formats supported by the client device (abstract-delivery settings) and Windows Media format (col. 1, line 64).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system of White et al. '664, with formats supported and Windows Media format, as taught by Ramaley et al. '309, in order to provide the system with an alternate media format that the user may desire and ensuring that the media will be executed appropriately.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John B. Walsh/  
Primary Examiner, Art Unit 2151